

## FINDING OF EMERGENCY

The Secretary of the Department of Food and Agriculture finds that an emergency exists, and that the foregoing regulation, or amendment to the regulation, is necessary for the immediate preservation of the public peace, health and safety, or general welfare.

### Specific Facts Showing the Need for Immediate Action

Mediterranean fruit fly is a destructive insect pest of innumerable commercial agricultural crops. Fruits (including citrus, pome and stone fruit, and berries) and the fruiting bodies of many wild and ornamental plants are known to be hosts or possible hosts of the Mediterranean fruit fly. Larval feeding reduces the interior of fruit to a rotten mass. Egg punctures admit decay organisms that cause tissue breakdown. Damaged fruit is generally unfit for human consumption. Movement of hosts infested with the larvae of the fly can artificially spread the fly.

Section 3406(b) was amended on an emergency basis on October 19, 2005 to establish a quarantine area of approximately 77 square miles surrounding the Mediterranean fruit fly infestation in the San Jose area of Santa Clara County. Since that date, treatments against the Mediterranean fruit fly were conducted for three lifecycles. Intensive trapping was conducted for an additional lifecycle without any additional finds of the fly. Therefore, Mediterranean fruit fly will be declared eradicated from the San Jose area on September 6, 2006.

This amendment of Section 3406(b) will remove the San Jose area of Santa Clara County from the area under quarantine for Mediterranean fruit fly. The fly will be declared eradicated from this area on September 6, 2006; therefore, it will no longer be necessary to regulate the movement of hosts and possible carriers of the fly from this area effective September 6, 2006.

It is necessary to amend this regulation on an emergency basis to remove the quarantine on the San Jose area and remove restrictions on the movement of hosts and possible carriers that are unnecessary. If these unnecessary restrictions were continued, it would create an unnecessary burden for the general public and businesses in that area. Host crops are being or will be harvested in this area soon. Commercially produced host crops, if the restrictions were continued, would have to be treated or would not be allowed movement from the areas. Also if the restrictions were continued, those members of the public who have grown host fruits and vegetables would be required to process the commodities before the fruits and vegetables can be moved or given away or they would have to destroy the host fruits and vegetables. Because this fly is repeatedly introduced into California with several infestations requiring quarantine action, the Department proposes to retain the regulation text and insert the word “reserved” in subsection (b). By this action, the regulation may be simply amended to add a new quarantine area description when a new infestation is detected without continuing restrictions for areas from which the fly has been eradicated.

#### Authority and Reference Citations

Section 3406(b):

Authority: Sections 407, 5301, 5302 and 5322, Food and Agricultural Code.

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#### Informative Digest

Existing law provides that the Secretary may establish, maintain, and enforce such regulations as he deems necessary to protect the agricultural industry of California from the spread of pests. The Secretary may make and enforce such regulations as he deems necessary to prevent any plant or thing which is, or is liable to be, infested by or which might act as a carrier of any pest, from passing over any quarantine boundary which is established.

#### Section 3406. Mediterranean Fruit Fly Interior Quarantine.

Existing regulations established a portion of Santa Clara County in the San Jose area as the quarantine area for Mediterranean fruit fly. This amendment will remove the quarantine area for Mediterranean fruit fly of approximately 77 square miles in the San Jose area of Santa Clara County. The effect of the amendment is to remove authority for the State to regulate movement of hosts and possible carriers of Mediterranean fruit fly within and from the San Jose area, because it is no longer necessary to protect California's agricultural industry since the fly has been eradicated from that area.

#### Mandate on Local Agencies or School Districts

The Department of Food and Agriculture has determined that Section 3406 does not impose a mandate on local agencies or school districts, except that agricultural commissioners of counties under quarantine have a duty to enforce it. No reimbursement is required under Section 17561 of the Government Code because this amendment will remove the portion of Santa Clara County that was in the area under quarantine; therefore, enforcement will no longer be necessary. There are no mandated costs associated with the removal of the San Jose area from the regulation.

#### Cost Estimate

The Department has also determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.